

MAY 02 1997

MAY 1 1997

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

RECEIVED

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY CB

In the Matter of:)
) No. 97A-079
RICHARD JAMES BAGGS,)
) ORDER SUMMARILY SUSPENDING
Respondent.) LICENSE AND NOTICE OF HEARING
)

The Arizona Department of Insurance (the "Department") alleges that Richard James Baggs, the Respondent, has violated the provisions of A.R.S. Title 20. In light of the serious nature of these allegations, the Director of Insurance ("Director") finds that the public health, safety and welfare imperatively requires emergency action, within the meaning of A.R.S. § 41-1064(C).

THEREFORE, IT IS ORDERED summarily suspending Respondent's Arizona insurance license, effective immediately, pending the proceedings commenced this date.

EFFECTIVE this 30th day of April, 1997.

for Chad C. Greene DEP. DIR.
JOHN A. GREENE, Director
Arizona Department of Insurance

PLEASE TAKE NOTICE that pursuant to the provisions of Arizona Revised Statutes ("A.R.S.") §§ 20-161 through and including 20-165, 41-1061 through and including 41-1066 and 41-1092.01, the above-captioned matter will be heard before the Director of Insurance of the State of Arizona (the "Director"), or his duly designated representative, on the 23rd day of June.

1 1997, at 9:00 a.m., at Office of Administrative Hearings, 1700
2 West Washington Street, Capitol Tower, West Wing, Suite 602,
3 Phoenix, Arizona (the "Hearing").

4 Motions to continue this matter shall be made in writing to
5 the Administrative Law Judge not less than five (5) business days
6 prior to the date set for the hearing. A copy of any motion to
7 continue shall be mailed or hand-delivered to the opposing party
8 on the same date of filing with the Office of Administrative
9 Hearings.

10 A.R.S. § 20-164 entitles any person affected by this Hearing
11 to appear in person and by counsel, to be present during the
12 giving of all evidence, to have a reasonable opportunity to
13 inspect all documentary evidence, to examine witnesses, to present
14 evidence in support of his/her interests, and to have subpoenas
15 issued by the Administrative Law Judge to compel attendance of
16 witnesses and production of evidence on the person's behalf.

17 Questions concerning issues raised in this Notice of Hearing
18 should be directed to Assistant Attorney General Michael J. De La
19 Cruz (602) 542-7722, 1275 West Washington, Phoenix, Arizona
20 85007.

21 NOTICE OF APPLICABLE RULES

22 On January 23, 1992, the Arizona Department of Insurance
23 adopted A.A.C. R20-6-101 through R20-6-115, setting forth the
24 rules of practice and procedure applicable in contested cases
25 before the Director of Insurance. The hearing will be conducted
26 pursuant to these rules.

1 PURSUANT TO A.A.C. R20-6-106, RESPONDENT SHALL FILE A WRITTEN
2 ANSWER WITHIN 20 DAYS AFTER ISSUANCE OF THIS NOTICE OF HEARING AND
3 SHALL MAIL OR DELIVER A COPY OF THE ANSWER TO THE ASSISTANT
4 ATTORNEY GENERAL DESIGNATED ABOVE. THE ANSWER SHALL STATE
5 RESPONDENT'S POSITION OR DEFENSE AND SHALL SPECIFICALLY ADMIT OR
6 DENY EACH ASSERTION IN THE NOTICE OF HEARING. ANY ASSERTION NOT
7 DENIED SHALL BE DEEMED TO BE ADMITTED. ANY DEFENSE NOT RAISED IN
8 ANSWER SHALL BE DEEMED WAIVED. IF AN ANSWER IS NOT TIMELY FILED,
9 RESPONDENT SHALL BE DEEMED IN DEFAULT AND THE DIRECTOR MAY DEEM
10 THE ALLEGATIONS ARE TRUE, AND TAKE WHATEVER ACTION IS APPROPRIATE,
11 INCLUDING SUSPENSION, REVOCATION, DENIAL OF A LICENSE, OR RENEWAL
12 OF A LICENSE, IMPOSITION OF A CIVIL PENALTY AND/OR ORDER
13 RESTITUTION TO ANY PARTY INJURED.

14 PERSONS WITH DISABILITIES MAY REQUEST REASONABLE
15 ACCOMMODATIONS SUCH AS INTERPRETERS, ALTERNATIVE FORMATS, OR
16 ASSISTANCE WITH PHYSICAL ACCESSIBILITY. REQUESTS FOR
17 ACCOMMODATIONS SHOULD BE MADE AS EARLY AS POSSIBLE TO ALLOW TIME
18 TO ARRANGE THE ACCOMMODATIONS. IF YOU REQUIRE ACCOMMODATIONS,
19 PLEASE CONTACT THE OFFICE OF ADMINISTRATIVE HEARINGS AT 542-9826.

20 The Department alleges:

21 1. Respondent Richard James Baggs ("Respondent") currently
22 holds license number 33585 to transact business as a life and
23 disability insurance agent. That license is due to expire
24 September 30, 1997.

25 2. On or about October 22, 1996, the Pima County Superior
26 Court entered a Judgment in State of Arizona v. Richard James

1 Bacqs, Case No. CR-54091, convicting Respondent of Theft by
2 Conversion, a Class 4 Felony, in violation of A.R.S. § 13-
3 1802(A)(2) and (C). The Court suspended imposition of sentence
4 and placed Respondent on four years supervised probation. The
5 Court also ordered Respondent to pay restitution in the amount of
6 \$132,021.00 to Great Western Insurance Company at a rate of \$150
7 per month commencing December 1, 1996.

8 3. Respondent has a record of dishonesty in business or
9 financial matters in violation of A.R.S. § 20-316(A)(1) together
10 with A.R.S. § 20-290 (B)(2).

11 4. Respondent's conduct alleged above constitutes a wilful
12 violation of, or a wilful noncompliance with, any provision of
13 this title, or any lawful rule, regulation or order of the
14 director, in violation of A.R.S. § 20-316(A)(2).

15 5. Respondent's conduct and actions constitute the
16 misappropriation or conversion to his own use or illegal
17 withholding of monies belonging to policyholders, insurers,
18 beneficiaries or others and received in or during the conduct of
19 business under the license or through its use, in violation of
20 A.R.S. § 20-316(A)(4).

21 6. Respondent's conduct alleged above constitutes a
22 conviction by final judgment of a felony involving moral
23 turpitude, in violation of A.R.S. § 20-316(A)(6).

24 7. Respondent's conduct and actions constitute a conduct
25 of affairs under the license, showing the licensee to be
26 incompetent or a source of injury and loss to, or repeated

1 complaint by, the public or any insurer, within the meaning of
2 A.R.S. § 20-316(A)(7).

3 Grounds exist for the Director to suspend, revoke or refuse
4 to renew Respondent's insurance license, impose a civil penalty
5 upon Respondent and/or order restitution, pursuant to A.R.S. § 20-
6 316(A) and 20-316(C).

7 WHEREFORE, if after hearing, the Director finds the grounds
8 alleged above, the Director may suspend, revoke or refuse to renew
9 Respondent's insurance license or order restitution, pursuant to
10 A.R.S. § 20-316(A) and 20-316(C).

11 Pursuant to A.R.S. § 20-150, the Director of Insurance
12 delegates the authority vested in the Director of Insurance of the
13 State of Arizona, whether implied or expressed, to the Director of
14 the Office of Administrative Hearings or his designee to preside
15 over the hearing of this matter as the Administrative Law Judge,
16 to make written recommendations to the Director of Insurance
17 consisting of proposed findings of fact, proposed conclusions of
18 law, and a proposed order. This delegation does not include
19 delegation of the authority of the Director of Insurance to make
20 the order on hearing or other final decision in this matter.

21 Pursuant to A.R.S. § 41-1092.01, your hearing will be
22 conducted through the Office of Administrative Hearings, an
23 independent agency. Enclosed is a copy of the procedures to be
24 followed.

25 ...

26 ...

1 DATED this 30th day of April 1997.

2
3 *for* Chad C. Greene, DEP. DIR.
4 JOHN A. GREENE, Director
5 Arizona Department of Insurance

6
7 COPY of the foregoing mailed
8 this 1st day of May 1997 to:

9 Office of Administrative Hearings
10 1700 West Washington, Suite 602
11 Phoenix, AZ 85007

12 Michael J. De La Cruz
13 Assistant Attorney General
14 1275 West Washington Street
15 Phoenix, Arizona 85007
16 Attorney for the Department

17 Charles R. Cohen, Deputy Director
18 John Gagne, Assistant Director
19 M. Ellen Miller, Investigator
20 Maureen Catalioto, Supervisor
21 Department of Insurance
22 2910 North 44th Street, Suite 210
23 Phoenix, Arizona 85018

24 Richard James Baggs
4828 East Grant Road, #46
Tucson, Arizona 85712
Respondent


Richard James Baggs
P.O. Box 64074
Tucson, Arizona 85728
Respondent

Mario Guevara
Office of Administrative Hearings
1700 West Washington, Suite 602
Phoenix, Arizona 85005

25 A courtesy copy of this Notice of Hearing has been
26 mailed/delivered to the persons listed below. If you are listed
below, you will receive no further notices or documents concerning
this matter other than the director's final order. Information
about the status of this matter, including whether the hearing

1 date has been changed, may be obtained by contacting the
2 Department of Insurance at (602) 912-8454 or the Assistant
3 Attorney General identified above, at (602) 542-7722.

3 Great Western Insurance Company
3408 Washington Boulevard
4 Ogden, Utah 84401

5 
6 _____
10199 (C2297-044)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

JUN 19 1997

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE
BY ED

In the Matter of:

RICHARD JAMES BAGGS,

Respondent.

No. 97A-079-INS

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER**

On May1, 1997, the Director issued an Order Summarily Suspending License and Notice of Hearing ("Notice") in the above-captioned matter, a copy of which is attached and incorporated by this reference. The Notice required Richard James Baggs to provide a written answer to the allegations set forth in the Notice within twenty days of the issuance of the Notice. As of this date, Respondent has failed to file an answer. On June 12, 1997, counsel for the Department filed a Request for Default, and proposed Findings of Fact, Conclusions of Law and Order. As of this date, Respondent has not responded to the Department's request. Pursuant to A.A.C. R20-6-106(C), a party that fails to file an answer within the time provided shall be deemed to be in default and one or more of the allegations in the notice of hearing may be deemed to be admitted.

FINDINGS OF FACT

1. Notice was proper.
2. Richard James Baggs is in default.
3. The allegations in the Notice are deemed admitted.

CONCLUSIONS OF LAW

1. The conduct alleged in the Notice constitutes grounds for the Director to suspend, revoke or refuse to renew Respondent's license to transact insurance in Arizona, pursuant to A.R.S. §20-316(A).

2. The conduct alleged in the Notice constitutes grounds for the Director to impose a civil penalty and/or order restitution, pursuant to A.R.S. §20-316(C).

ORDER

Based on the above, it is ordered that:

1. Insurance license held by Richard James Baggs is revoked effective upon the issuance of this Order.

2. Respondent Richard James Baggs shall comply with the restitution ordered in State of Arizona v. Richard James Baggs, Pima County Superior Court, No. CR-54091.

3. The hearing set for June 23, 1997, shall be vacated.

DATED this 18 day of June 1997.


JOHN A. GREENE, Director
Arizona Department of Insurance

COPY of the foregoing mailed this 19th day of June 1997, to:

Office of Administrative Hearings
1700 West Washington, Suite 602
Phoenix, Arizona 85007


Michael J. De La Cruz
Assistant Attorney General
1275 West Washington
Phoenix, Arizona 85007

Charles R. Cohen, Deputy Director
John Gagne, Assistant Director
M. Ellen Miller, Investigator
Maureen Catalioto, Supervisor
Department of Insurance
2910 N. 44th Street, Suite 210
Phoenix, Arizona 85018

1 Richard James Baggs
4828 East Grant Road, #46
2 Tucson, Arizona 85712
Respondent

3 Richard James Baggs
4 P.O. Box 64074
Tucson, Arizona 85728
5 Respondent

6 Great Western Insurance Company
3408 Washington Boulevard
7 Ogden, Utah 84401

8 
9 _____
#12038 [CPA97-044]

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26